



March 4, 2014

The Honorable John P. "Jack" Seiler, Mayor
The Honorable Bruce G. Roberts, Vice Mayor
The Honorable Dean J. Trantalis, Commissioner
The Honorable Bobby B. DuBose, Commissioner
The Honorable Romney Rogers, Commissioner
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

Re: Grand Birch, LLC, Case No. 53-R-12 – Request for Extension of Time for Site Plan Expiration (City Commission Agenda Item #R-2)

Dear Mayor, Vice Mayor and Commissioners:

We are in receipt of John Weaver's March 3, 2014, email to the City Commission, and, on behalf of Grand Birch, LLC, please consider this response.

Grand Birch never sued the Central Beach Alliance. The Central Beach Alliance and Residents for Responsible Growth LLC sued the City of Fort Lauderdale in a lawsuit that alleged that Resolution No. 13-65, approving Grand Birch's development plan, was inconsistent with the City's Comprehensive Plan. Grand Birch intervened in the lawsuit, and successfully dismissed the declaratory judgment count relating to the location of the pool. The remainder of the lawsuit, including the Chapter 163 counts, was voluntarily dismissed after the plaintiff's own expert witness testified that the Grand Birch development plan was not inconsistent with the City's Comprehensive Plan. As allowed by statute, Grand Birch simply requested its attorney's fees incurred in its successful defense of the Chapter 163 lawsuit. Grand Birch has never filed a lawsuit requesting compensatory or punitive damages from the Central Beach Alliance

Nevertheless, Grand Birch has withdrawn its request for attorney's fees with respect to the Central Beach Alliance. A copy of the Notice is attached. Grand Birch already has suffered from unnecessary delays and expenses resulting from a frivolous lawsuit, and Grand Birch wants to move forward. We appreciate the City's consideration of the application.

Sincerely,

Michael W. Marcil

MWM/mh
FTL_ACTIVE 4448512.1

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

RESIDENTS FOR RESPONSIBLE GROWTH,
LLC, a Florida Limited Liability Company,

Plaintiff,

vs.

CITY OF FORT LAUDERDALE, FLORIDA,
by and through its City Commission, a Florida
municipality,

Defendant,

and

GRAND BIRCH, LLC, a Florida Limited
Liability Company,

Defendant-Intervenor.

Case No. 062013CA011308AXXXCE

**GRAND BIRCH, LLC'S NOTICE OF WITHDRAWAL OF GRAND BIRCH, LLC'S
AMENDED MOTION FOR SANCTIONS AGAINST PLAINTIFF, CENTRAL BEACH
ALLIANCE OF FORT LAUDERDALE, INC., PURSUANT TO FLORIDA STATUTES
SECTION 163.3215(6)**

Defendant-Intervenor, Grand Birch, LLC, by and through its undersigned counsel, hereby files its Notice of Withdrawal of Grand Birch, LLC's Amended Motion for Sanctions against Plaintiff, Central Beach Alliance of Fort Lauderdale, Inc., pursuant to Florida Statutes Section 163.3215(6).¹

¹Grand Birch's Motion for Entitlement to Reasonable Expenses Incurred in Chapter 163 Consistency Challenge Filed by Plaintiff, Residents for Responsible Growth, LLC and Request for Evidentiary Hearing as to Amount of Reasonable Expenses, served on November 19, 2013, remains pending as to Becker & Poliakoff, P.A., Arnstein & Lehr, P.A., Keith Poliakoff, Michelle Klymko and Daniel Wallach.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via email to:
Edward R. Blumberg (erb@deutschblumberg.com), Deutsch & Blumberg, P.A., Counsel for
Daniel L. Wallach and Becker & Poliakoff, P.A., New World Tower, Suite 2802, 100 North
Biscayne Boulevard, Miami, Florida 33132; James C. Brady, Esquire (icbrady@arnstein.com),
Arnstein & Lehr, P.A., 200 East Las Olas Boulevard, Suite 1700, Fort Lauderdale, Florida
33301; and Ginger Wald, Esquire, City of Fort Lauderdale, 100 North Andrews Avenue, 7th
Floor, Fort Lauderdale, Florida 33301 (gwald@fortlauderdale.gov), this 4th day of March, 2014.

GUNSTER, YOAKLEY & STEWART, P.A.
450 East Las Olas Boulevard, Suite 1400
Fort Lauderdale, Florida 33301
Tel: (954) 462-2000
Fax: (954) 523-1722

By: /s/ Jonathan K. Osborne

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